

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**DEC 19 2005**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

PAGING CENTER, INC., an Oregon  
corporation,

Plaintiff - Appellant,

v.

AT&T WIRELESS SERVICES, INC., a  
Delaware corporation,

Defendant - Appellee.

No. 04-35072

D.C. No. CV-03-00226-DJH

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Oregon  
Dennis James Hubel, Magistrate Judge, Presiding

Submitted July 11, 2005<sup>\*\*</sup>  
Portland, Oregon

Before: PREGERSON,<sup>\*\*\*</sup> RYMER and TASHIMA, Circuit Judges.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

<sup>\*\*\*</sup> Judge Pregerson was drawn to replace Judge Weiner. He has read the briefs and reviewed the record

The Paging Center, Inc. appeals the summary judgment in favor of AT&T Wireless Services, Inc. (AT&T Delaware). We affirm.

Even assuming that AT&T Delaware controlled the McCaw subsidiaries and that they held themselves out as a single entity, Paging Center failed to show any improper conduct or causal connection between misconduct by AT&T Delaware and Metrocall's obtaining confidential Paging Center information. There is no evidence that AT&T Delaware or its subsidiaries acquired Paging Center's accounts information, improperly gave access to it during the stock purchase due diligence period, or transferred that information to third parties. Schwartz's testimony that the Stock Purchase Agreement provided Metrocall only with information regarding McCaw Communications of Portland's customers, not the customers' end users, is uncontradicted. Keeling's information and belief to the contrary does not raise a genuine issue. *See, e.g., Taylor v. List*, 880 F.2d 1040, 1045-46 (9th Cir. 1989). Accordingly, as the district court concluded, there is no basis for piercing the corporate veil. *Hambleton Bros. Lumber Co. v. Balkin Enter., Inc.*, 397 F.3d 1217, 1228 (9th Cir. 2005); *Amfac Foods, Inc. v. Int'l Sys. & Controls Corp.*, 654 P.2d 1092, 1101 (Or. 1982) (en banc); *Oregon Pub. Employees' Ret. Bd. v. Simat, Helliesen & Eichner*, 83 P.3d 350, 362 (Or. Ct. App. 2004).

AFFIRMED.